

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KIURYS MARTINEZ and DELIELA MARTINEZ, X

Plaintiffs,  
-against-

TARGET CORPORATION,

Defendants.

-X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 8/9/13  
DATE FILED: 8/9/13

Case No. 13-cv-0447(RPP)

**PROPOSED  
SCHEDULING ORDER**

**PATTERSON, D.J.**

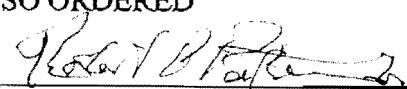
Upon application by Defendant, Target Corporation, for an extension of the scheduling order issued by this Court on March 12, 2013, it is hereby ordered as follows:

1. All fact discovery shall be completed by November 14, 2013.
2. All expert discovery shall be completed by January 13, 2014.
3. All dispositive motions shall be filed on or before January 31, 2014.
4. Trial shall commence on February 10, 2014 at 9:30 am

*Plaintiffs shall provide Defendants with Part 26 Discovery immediately  
and not after 8/15/13.*

Dated: New York, New York  
August 8, 2013

SO ORDERED

  
ROBERT P. PATTERSON, JR.  
U.S.D.J.

See attached typewritten  
Memo Endorsement

FISHMAN MCINTYRE P.C.  
ATTORNEYS AT LAW

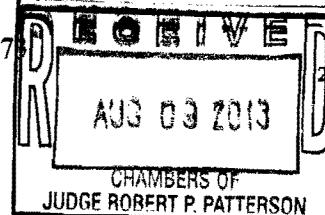
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August 9, 2013

*Via Facsimile 212-805-7917*

Judge Robert P. Patterson, Jr.  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

**Re: Martinez, et al v. Target Corporation**  
**Case No.: 1:13-cv-00447-RPP**  
**Our File No.: TARN-67-ML**

Dear Judge Patterson:

Please be advised this firm represents the Defendant, Target Corporation in connection with the above referenced litigation.

On March 12, 2013, Your Honor signed a discovery scheduling order. For one, that order provided that all fact discovery be completed by August 16, 2013. However, fact discovery has not been completed. Indeed, despite the fact that Target has provided plaintiff with its Rule 26 Disclosure, as well as other attachments including a contract and a video depicting plaintiff's fall, we received nothing from plaintiff. We have not received plaintiff's Rule 26 Disclosure. We have not received responses to the various demands for discovery served at the time the Answered was filed, including plaintiff's answers to interrogatories, medical reports and authorizations, or anything else.

I recently left a message with plaintiff's counsel seeking their consent to extend discovery and to renew our request that said outstanding discovery be provided. As of this writing, I have not received a reply call or any communication. Thus, I obviously do not know whether plaintiff would consent, (assumption in the positive appears to be legitimate).

Please note that this is the first request for an extension of any discovery deadlines.

We respectfully request that the fact discovery end date, again presently August 16, 2013, be adjourned by 90 days to allow completion of fact discovery. The new date would therefore be November 14, 2013. However, this would necessarily effect the balance of the previously entered into scheduling order.

For instance, Your Honor previously ordered all expert discovery be completed October 15, 2013. A similar 90 day adjournment thereof would make the new date January 13, 2014.

Your Honor also previously ordered that dispositive motions be filed by November 1, 2013. A likewise 90 day adjournment of that day would result in a new date of January 31, 2014.

Most importantly, Your Honor set the matter down for trial on November 18, 2013. Obviously, if Your Honor is inclined to grant any or all of the foregoing, this date must be adjourned. I respectfully request a new date for early Spring, 2014.

With respect to the foregoing request, I have prepared an proposed updated scheduling order for Your Honor's review.

Thank you in advance for Your Honor's kind attention to the foregoing.

Respectfully yours,

  
Mitchell B. Levine  
[mitch@fishmanmcintyre.com](mailto:mitch@fishmanmcintyre.com)

MBL:vt

Cc: Michael A. Madonna – *Via Facsimile 212-980-4011*

**Case: Kiurys Martinez and Deliela Martinez v. Target Corp.  
Index No.: 13 Civ. 0447**

**Scheduling Order Reads:**

**5. Plaintiffs shall provide Defendants with Rule 26 discovery  
immediately and not after 8/15/13.**

*Robert P. Patterson, Jr., U.S.D.J., 8/9/13*